

Notice of Allowability	Application No.	Applicant(s)	
	10/562,304	PEISL ET AL.	
	Examiner	Art Unit	
	DANIEL G. DOBSON	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 06/16/2009.
2. ☒ The allowed claim(s) is/are 30, 32-37 and 40-54 (renumbered as 1-22).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>07/13/2009</u> . 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
|---|--|

/Kenneth N Vanderpuye/
 Supervisory Patent Examiner, Art Unit 2613

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kevin Spivak (43148) on July 10, 2009.

The application has been amended as follows:

Claim 30. A method for pre-emphasis of an optical wavelength division multiplex signal of which signals with different wavelengths assembled in groups are transmitted over a channel of a transmission link with a number of sections and network elements, the channel selected from the group consisting of express channel, drop channel, add channel, and add-drop channels, the method comprising:

transmitting from a first network element to a second network element for the express channel;

injecting drop channels, add channels or add-drop channels at drop points that are arranged between the first and second network elements; and

achieving predetermined average optical signal-to-noise ratios in a network element for a termination group of signals and an injection point of the group, an average and an individual-channel power setting of the signals for the

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termination group, wherein for a non-termination group of signals the average power ~~is set to~~ at a preceding network element, wherein

depending on a encoding type of ~~the~~ a counter and of a marking for dropping a group, a regulation protocol provided at a selected controlling network element for control of pre-emphasis steps with sub-pre-emphasis settings and/or the additional individual-channel pre-emphasis of the groups along the transmission link is selected, and

after a receipt of a data packet having the counter with a value of 0, a network element controls the pre-emphasis steps for its subsequent network sections and the counter is incremented to 1, and

at the injection point, the average signal power of a group with drop channels dropped at a subsequent drop point is reduced in favor of the average signal power of an onwards-routed group of express channels, or the average signal power of a group with add-drop channels dropped at a subsequent drop point is reduced in favor of the average signal power of an onwards-routed group of express channels, or the average signal power of a group with drop channels terminated at a subsequent drop point is reduced in favor of the average signal power of an onwards-routed group of express channels, or the average signal power of a group with add-drop channels terminated at a subsequent drop point is reduced in favor of the average signal power of an onwards- routed group of express channels.

Claim 32. The method according to claim ~~34~~ 30, further comprising redistributing via a signal power regulation of the average signal powers between the groups in injecting or switching network elements.

2. The following is an examiner's statement of reasons for allowance:

Claim 30 (and dependent claims) is allowed because the prior art of record fails to teach, in combination with other claim limitations, "depending on a encoding type of a counter and of a marking for dropping a group, a regulation protocol provided at a selected controlling network element for control of pre-emphasis steps with sub-pre-emphasis settings and/or the additional individual-channel pre-emphasis of the groups along the transmission link is selected, and

after a receipt of a data packet having the counter with a value of 0, a network element controls the pre-emphasis steps for its subsequent network sections and the counter is incremented to 1, and

at the injection point, the average signal power of a group with drop channels dropped at a subsequent drop point is reduced in favor of the average signal power of an onwards-routed group of express channels, or the average signal power of a group with add-drop channels dropped at a subsequent drop point is reduced in favor of the average signal power of an onwards-routed group of express channels, or the average signal power of a group with drop channels terminated at a subsequent drop point is reduced in favor of the average signal power of an onwards-routed group of express channels, or the average signal power of a group with add-drop channels terminated at a subsequent drop point

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is reduced in favor of the average signal power of an onwards- routed group of express channels."

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL G. DOBSON whose telephone number is (571)272-9781. The examiner can normally be reached on Mon. - Fri. 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on (571) 272-3078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel G. Dobson/
Examiner, Art Unit 2613
07/13/2009

/Kenneth N Vanderpuye/
Supervisory Patent Examiner, Art Unit 2613